December 15, 2006
Press Release | Contact: Danielle Langone (202) 225-6416

WASHINGTON, DC—U.S. Congressman Peter DeFazio sent a letter today to President Bush urging him to file a case with the World Trade Organization (WTO) charging oil-producing countries with improperly restricting exports. DeFazio argued that restricting exports leads to de facto price fixing.

The Organization of Petroleum Exporting Countries (OPEC) recently agreed to a reduction in output by 500,000 barrels a day beginning in February 2007. This is in addition to a 1.2 million barrel a day reduction agreed to in late October. Under Article XI of the WTO rules, member countries are prohibited from using anything other than, “duties, taxes or other charges,” to limit imports or exports across their borders. Therefore, DeFazio argued that oil production quotas violate WTO rules.

“As a world power, we have leverage over OPEC members,” DeFazio said. “Why should we continue to support the oil barons who collude to raise the price of oil and in turn hike up prices at the pump?

"Given this administration’s coziness with big oil, I’m not optimistic the Bush administration will take meaningful action on this issue. But the U.S. has regularly filed cases at the WTO on behalf of U.S. business interests. It’s time we do the same on behalf of U.S. consumers.”

The text of the letter follows.

December 15, 2006

The Honorable George W. Bush
President
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear President Bush:

As you know, the Organization of Petroleum Exporting Countries (OPEC) just agreed to a reduction in output of 500,000 barrels-a-day beginning February 1, 2007. This is on top of the 1.2 million barrel-a-day reduction OPEC agreed to just two months ago. The combined reduction of nearly 2 million barrels a day has caused oil prices to again head toward $70 a barrel.

The Federal Reserve has been successful at keeping inflation in check and interest rates relatively low. However, rising energy prices, particularly for oil, may make that job impossible in the near future. In response to rising oil prices and the possibility of higher inflation, the Federal Reserve may end up raising interest rates to levels so high that they choke off economic growth. High oil prices will also inflate the already record trade deficits that threaten our economic stability. And, of course, the resulting high retail gas prices will harm consumers, farmers, small businesses, and manufacturers.

Fortunately, the U.S. does not have to sit idly by while OPEC manipulates the supply and price of oil. As I have suggested to you before, the U.S. should file a case against OPEC at the World Trade Organization (WTO) for illegal market manipulation and price fixing. You and others have repeatedly expressed support for the WTO and "rules-based" trade. Now you have an opportunity to prove that your commitment to rules-based trade is more than rhetorical. OPEC's willful violation of WTO rules should not be allowed to stand.

Of the 12 OPEC countries (Angola will become a member on January 1, 2007), eight are members of the WTO (Angola, Kuwait, Indonesia, Nigeria, Qatar, Venezuela, Saudi Arabia, and United Arab Emirates); and four have observer status and have applied to join the WTO (Algeria, Libya, Iran, Iraq). In addition, of the remaining large oil-producing nations, Mexico, Norway, and Oman are members of the WTO, and Russia has applied for membership. Therefore, filing a case could have widespread impact.

The General Elimination of Quantitative Restrictions, otherwise known as Article XI of the original General Agreement on Tariffs and Trade (GATT) adopted in 1947, which was also a part of the Uruguay Round text in 1994 that created the WTO, states:

“No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.”

In other words, establishing quotas and colluding to set production levels as OPEC does clearly violate WTO rules, specifically Article XI.

The precise meaning of this provision is fleshed out in a 1988 GATT Panel Report on “Japan - Trade in Semi-conductors.” The Panel noted:

“...this wording (in Article XI) was comprehensive: it applied to all measures instituted or maintained by a contracting party prohibiting or restricting the importation, exportation or sale for export of products other than measures that take the form of duties, taxes, or other charges...This wording indicated clearly that any measure instituted or maintained by a contracting party which restricted the exportation or sale for export of products was covered by this provision, irrespective of the legal status of the measure.”

The 1988 GATT panel report cited above clarifies that only duties, taxes or other charges are allowable, not pacts among countries to limit production of a product for export. The oil production quotas devised by OPEC clearly qualify as a “quantitative restriction” in violation of WTO rules, and I would again request that you file a case at the WTO arguing this point.

Finally, I want to bring your attention to Article XX, which sets out a series of broad exceptions to Article XI. Article XX notes that none of the exceptions are valid if they are “applied in a manner which would constitute...a disguised restriction on international trade." Therefore, the broad exception in Article XX that allows restrictions for the "conservation of exhaustible natural resources" would not protect OPEC's market manipulation because OPEC is not restricting oil production due to conservation concerns or to preserve an exhaustible supply. Rather, OPEC is restricting supply solely in order to influence world oil prices which clearly qualifies as a "disguised restriction on international trade."

The United States government has filed a number of cases with the WTO on behalf of U.S. companies; it is past time to show a similar commitment to U.S. consumers and fuel-dependent industries that are being gouged by OPEC.

Sincerely,

/s/

PETER DeFAZIO
Member of Congress

Cc: Ambassador Susan C. Schwab, U.S. Trade Representative